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| 10/789,816 | 02/27/2004 | Richard M. Onyon | FUSN1-01045US0 | 5654 |
| 28554 7590 01/30/2007 VIERRA MAGEN MARCUS & DENIRO LLP 575 MARKET STREET SUITE 2500 SAN FRANCISCO, CA 94105 | | | EXAMINER RAMPURIA, SHARAD K | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/789,816

Applicant(s)

ONYON ET AL.

Examiner

Sharad Rampuria

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-62 and 64-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-62 and 64-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

I. The Art Unit location of this application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

Disposition of the claims

II. The current office-action is in response to the Pre-Brief Conference request filed on 11/09/06.

Accordingly, Claims 1-62, 64-69 is imminent for further assessment as follows:

Claim Rejections - 35 USC § 101

III. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 61-62, 64-69 is rejected under 35 U.S.C. 101, because One or more processor, hence "Nonfunctional descriptive material."

On behalf of illustration, "Nonfunctional descriptive material that does not constitute a statutory process, machine, manufacture or composition of matter and should be rejected under 35 U.S.C. § 101. Certain types of descriptive material, such as music, literature, art, photographs and mere arrangements or compilations of facts or data, without any functional interrelationship is not a process, machine, manufacture or composition of matter. Nonfunctional descriptive

Art Unit: 2617

material may be claimed in combination with other functional descriptive multi-media material on a computer-readable medium to provide the necessary functional and structural interrelationship to satisfy the requirements of 35 U.S.C. § 101. The presence of the claimed nonfunctional descriptive material is not necessarily determinative of nonstatutory subject matter. For example, a computer that recognizes a particular grouping of musical notes read from memory and upon recognizing that particular sequence, causes another defined series of notes to be played, defines a functional interrelationship among that data and the computing processes performed when utilizing that data, and as such is statutory because it implements a statutory process.”

Claim Rejections - 35 USC § 102

IV. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-15, 17, 20-45, 48-62, and 64-69 are rejected under 35 U.S.C. 102 (e) as being anticipated by Schrire et al. [US 20040235523].

As per claim 1, Schrire teaches:

A method implemented by a processing device on a telephone for backing up personal information stored in a telephone (i.e. data stored...at a backup data service; Paragraph; 0050, Abstract), comprising:

Presenting a back-up system user account set-up interface on a user interface on the phone, the set up interface enabling establishment of a back-up service account; (i.e. user can set-up the account by entering the identity of the user on the mobile phone's keyboard; Paragraphs; 0061, 0051)

Presenting a backup scheduling interface to the user interface on the phone, the back-up scheduling interface accepting user input on a backup schedule; (i.e. scheduler; Paragraphs; 0077, 0096; 0084, 0102) and

Presenting a restore information interface on the user interface on the phone, the restore interface enabling a user to retrieve backup information to a data store on the phone. (i.e. sync the data; Paragraphs; 0160, 0067, 0065, 0114, 0119).

As per claim 2, Schrire teaches:

The method of claim 1 wherein the user account setup interface calls a method allowing the user to set up a backup account with a backup store. (i.e. verifying the user; Pg.3; 0061, Pg.2; 0051)

As per claim 3, Schrire teaches:

The method of claim 1 wherein the backup scheduling interface sets an interval to regularly send personal information to the backup store. (i.e. database backed up generally on a

Art Unit: 2617

regular, daily basis; Pg.4; 0084)

As per claim 4, Schrire teaches:

The method of claim 1 wherein the backup scheduling interface causes the transmission of personal information to the backup store upon modification of the information on the phone. (i.e. refresh data display on the phone; Pg.3; 0067, 0065).

As per claim 5, Schrire teaches:

The method of claim 1 wherein the restore interface calls a method to upload all stored information on the server to the phone. (Pg.4; 0075, 0077)

As per claim 6, Schrire teaches:

The method of claim 5 wherein the method further includes providing a rollback interface. (Pg.3; 0065)

As per claim 7, Schrire teaches:

The method of claim 6 wherein the rollback interface is accessed via a web browser. (93; Fig.8, Pg.4; 0084)

As per claim 8, Schrire teaches:

The method of claim 6 where the rollback interface is accessed via a wireless protocol. (Pg.2; 0050)

As per claim 9, Schrire teaches:

The method of claim 6 wherein the rollback interface calls a method uploading changes based on a particular date (Pg.3; 0067, Pg.5; 0091)

As per claim 10, Schrire teaches:

The method of claim 1 wherein the method further includes providing an undelete interface. (Pg.4; 0078)

As per claim 11, Schrire teaches:

The method of claim 10 wherein the undelete interface is accessed via a web browser. (93; Fig.8, Pg.4; 0084)

As per claim 12, Schrire teaches:

The method of claim 10 wherein the undelete interface is accessed via a wireless protocol such as WAP. (Pg.7; 0120)

As per claim 13, Schrire teaches:

The method of claim 10 wherein the undelete interface calls a method which transmits a change associated with a particular record in a user's personal information space. (Pg.4; 0078)

As per claim 14, Schrire teaches:

The method of claim 1 wherein said personal information comprises an address book data store. (Pg.2; 0053)

As per claim 15, Schrire teaches:

The method of claim 1 wherein said personal information comprises a task entry data store. (i.e. user defined data; Pg.2; 0053)

As per claim 17, Schrire teaches:

The method of claim 1 wherein said personal information comprises a note entry data store. (i.e. user defined data; Pg.2; 0053)

As per claim 20, Schrire teaches:

A method for storing personal information in a wireless telephone in a backup storage database (i.e. data stored...at a backup data service; Pg.2; 0050, Abstract), comprising:

Providing a phone agent (i.e. customer service; Pg.14; 0244) including instructions operable by a processor in the phone to implement an automated phone data transmission method capable of regularly transmitting changes to a backup store via a communications link and a restore method retrieving backup information to a data store on the phone, the agent including a backup service signup interface, a backup method scheduling interface and a restore interface calling the restore method, all provided to a user interface on the phone; (i.e. scheduler; Paragraphs; 0077, 0096; 0084, 0102) and

Art Unit: 2617

Responsive to user entry at the restore interface of said agent, providing changes from the backup store to the wireless telephone. (i.e. sync the data; Paragraphs; 0160, 0067, 0065, 0114, 0119)

As per claim 21, Schrire teaches:

The method of claim 20 wherein the method further includes accepting personal information from the telephone at intervals defined by the user. (Pg.3; 0060)

As per claim 22, Schrire teaches:

The method of claim 20 wherein the method further includes accepting user account set-up data from the agent. (i.e. customer service; Pg.14; 0244)

As per claim 23, Schrire teaches:

The method of claim 20 wherein the method further includes assigning a schedule of download intervals to the agent. (i.e. customer service; Pg.14; 0244)

As per claim 24, Schrire teaches:

The method of claim 21 wherein the method further includes modifying the interval schedule to load balance amongst a plurality of users. (Fig.1; 1a-c, Pg.2; 0050)

As per claim 25, Schrire teaches:

The method of claim 20 further including providing a notification to the agent that changes have been made to the backup store via a secondary interface. (i.e. customer service interface; Pg.9; 0160)

As per claim 26, Schrire teaches:

The method of claim 25 wherein the phone agent updates phone upon receipt of a notification. (i.e. SMS; Pg.3; 0066)

As per claim 27, Schrire teaches:

The method of claim 25 wherein the notification is a SMS message. (i.e. SMS; Pg.3; 0066)

As per claim 28, Schrire teaches:

The method of claim 20 wherein the notification is a result of polling the server for changes. (i.e. polling; Pg.3; 0066)

As per claim 29, Schrire teaches:

The method of claim 25 wherein the method further includes providing the secondary interface and the secondary interface is a web interface. (i.e. customer service interface; Pg.9; 0160)

As per claim 30, Schrire teaches:

A method implemented on a wireless telephone for maintaining personal information in a wireless telephone (i.e. data stored...at a backup data service; Pg.2; 0050, Abstract), comprising:

Presenting a backup system user account set-up interface on a user interface on the phone; Establishing a user account via the backup system user account setup interface, the user account identifying the user by an unique designation; (i.e. user can set-up the account by entering the identity of the user on the mobile phone's keyboard; Paragraphs; 0061, 0051) and

Transmitting phone data to a backup store via a wireless network at regular intervals schedule by the user. (i.e. scheduler; Paragraphs; 0077, 0096; 0084, 0102)

As per claim 31, Schrire teaches:

The method of claim 30 wherein the step of transmitting includes transmitting phone data at user-defined intervals (Pg.4; 0084, Pg.6; 0096, 0102)

As per claim 32, Schrire teaches:

The method of claim 30 wherein the step of transmitting occurs upon receipt of an indication from backup store that changes to data on the data store have occurred. (Pg.4; 0084, Pg.6; 0096, 0102)

As per claim 33, Schrire teaches:

The method of claim 32 wherein the indicator is an SMS message. (i.e. SMS; Pg.3; 0066)

As per claim 34, Schrire teaches:

Art Unit: 2617

The method of claim 32 wherein the indicator is a result of polling the backup store to determine if changes have occurred. (i.e. polling; Pg.3; 0066)

As per claim 35, Schrire teaches:

The method of claim 30 wherein the step of transmitting includes transmitting only changes to phone data. (Pg.4; 0084, Pg.6; 0096, 0102)

As per claim 36, Schrire teaches:

The method of claim 35 wherein the step of transmitting includes transmitting only changes to phone data in the form of change logs. (Pg.10; 0178-0179)

As per claim 37, Schrire teaches:

The method of claim 36 wherein the method further includes the step of restoring data to the phone by applying all change logs. (Pg.4; 0084, Pg.6; 0096, 0102)

As per claim 38, Schrire teaches:

The method of claim 30 further including the step of providing an interface to the store via the web to alter data in the data store. (93; Fig.8, Pg.4; 0084)

As per claim 39, Schrire teaches:

The method of claim 38 further including the step transmitting data changed by the interface to the phone at a user scheduled interval. (Pg.4; 0084, Pg.6; 0096, 0102)

As per claim 40, Schrire teaches:

The method of claim 38 further including the step transmitting data changed by the interface to the phone at upon a user initiated action. (Pg.4; 0084, Pg.6; 0096, 0102)

As per claim 41, Schrire teaches:

The method of claim 38 further including the step transmitting data changed by the interface to the phone at a server-directed interval. (Pg.4; 0084, Pg.6; 0096, 0102)

As per claim 42, Schrire teaches:

A method implemented by a processor on for a wireless telephone (i.e. data stored...at a backup data service; Pg.2; 0050, Abstract), comprising:

An automated backup process transmitting changes to the backup system at user defined intervals; (i.e. scheduler; Paragraphs; 0077, 0096; 0084, 0102) and

A restore process activated by a user via a restore interface provided to the user by the application on the phone, to restore information stored on the backup system to the phone. (i.e. sync the data; Paragraphs; 0160, 0067, 0065, 0114, 0119)

As per claim 43, Schrire teaches:

The application of claim 42 wherein the application further includes a rollback phone information process. (Pg.3; 0065)

As per claim 44, Schrire teaches:

The application of claim 43 wherein rollback information process returns data on the wireless to a state existing on a specified date. (Pg.3; 0067, Pg.5; 0091)

As per claim 45, Schrire teaches:

The application of claim 42 wherein the application further includes an undelete record process. (Pg.4; 0078)

As per claim 48, Schrire teaches:

The application of claim 42 including a SyncML communications module. (Pg.9; 0160)

As per claim 49, Schrire teaches:

The application of claim 48 wherein the application operates to transmit changes from the backup system to the phone. (Pg.9; 0160)

As per claim 50, Schrire teaches:

The application of claim 49 wherein the SyncML communications module includes a SyncML client. (Pg.9; 0160)

As per claim 51, Schrire teaches:

The application of claim 48 wherein the SyncML communications module communicates with a SyncML client in the telephone. (Pg.9; 0160)

As per claim 52, Schrire teaches:

An application for storing personal information in a wireless telephone having a user interface and having a data store to a backup system (i.e. data stored...at a backup data service; Pg.2; 0050, Abstract), comprising:

An automated user account creation method initiated by the user via a user interface on a wireless telephone, the creation method accessing the backup system using a unique identifier for the user to create a user account on the backup system; (i.e. user can set-up the account by entering the identity of the user on the mobile phone's keyboard; Paragraphs; 0061, 0051)

An automated backup method transmitting changes to the backup system at user-defined intervals; (i.e. scheduler; Paragraphs; 0077, 0096; 0084, 0102)

A restore method called by the user through a restore interface presented on the user interface of the phone, the restore method providing user data to a phone. (i.e. sync the data; Paragraphs; 0160, 0067, 0065, 0114, 0119)

As per claim 53, Schrire teaches:

The application of claim 52 wherein the application includes a rollback method providing a state of user data existing as of a specified date. (Pg.3; 0065)

As per claim 54, Schrire teaches:

The application of claim 52 wherein the application includes an undelete method providing at least one restored data item previously deleted by a user action. (Pg.4; 0078)

As per claim 55, Schrire teaches:

The application of claim 52 wherein at least the backup method and the account creation method are initiated by the agent. (i.e. customer service; Pg.14; 0244)

As per claim 56, Schrire teaches:

The application of claim 52 wherein the intervals are defined by user but altered by administrator. (i.e. customer service; Pg.14; 0244)

As per claim 57, Schrire teaches:

The application of claim 52 wherein the intervals are regular. (i.e. database backed up generally on a regular, daily basis; Pg.4; 0084, Pg.6; 0102)

As per claim 58, Schrire teaches:

The application of claim 52 wherein the intervals are arbitrary. (i.e. database backed up generally on a regular, daily basis; Pg.4; 0084, Pg.6; 0102)

As per claim 59, Schrire teaches:

The application of claim 52 wherein the restore method operates responsive to a phone recognized as having no data and an existing user account. (Pg. 11; 0183)

As per claim 60, Schrire teaches:

The application of claim 52 wherein the account creation method is performed by the backup system via a secondary interface provided to the user. (i.e. customer service interface; Pg.9; 0160)

As per claim 61, Schrire teaches:

One or more processor (41; Fig.3) readable storage devices having processor readable code embodied on said processor readable storage devices, said processor readable code for programming one or more processors to perform a method (i.e. data stored...at a backup data service; Pg.2; 0050, Abstract) comprising the steps of:

Presenting a backup scheduling interface to a user interface on a wireless phone, the backup scheduling interface accepting user input on a backup schedule; (i.e. scheduler; Paragraphs; 0077, 0096; 0084, 0102)

Transmitting an initial set of phone data to a backup system; Transmitting changes to the phone data at an interval defined by the user via the user interface to the backup system; (i.e. user can set-up the account by entering the identity of the user on the mobile phone's keyboard; Paragraphs; 0061, 0051) and

Presenting a restore information interface on the user interface on the phone, the restore interface enabling the user to retrieve the phone data and changes to the phone data to a data store on the phone. (i.e. sync the data; Paragraphs; 0160, 0067, 0065, 0114, 0119)

As per claim 62, Schrire teaches:

One or more processor readable storage devices as defined in claim 61 wherein the method further includes the steps of presenting a user account setup interface. (i.e. SIM card; Pg.3; 0061, Pg.2; 0051)

As per claim 64, Schrire teaches:

One or more processor readable storage devices as defined in claim 62 wherein the setup interface is presented via a world wide web interface. (93; Fig.8, Pg.4; 0084)

As per claim 65, Schrire teaches:

One or more processor readable storage devices as defined in claim 61 wherein the backup scheduling interface is provided on the phone. (Pg.3; 0060)

As per claim 66, Schrire teaches:

One or more processor readable storage devices as defined in claim 62 wherein the backup scheduling interface is provided via a world wide web interface. (93; Fig.8, Pg.4; 0084)

As per claim 67, Schrire teaches:

One or more processor readable storage devices as defined in claim 61 wherein the restore information interface is provided on the phone. (i.e. refresh data display on the phone; Pg.3; 0067, 0065, Pg.7; 0114, 0119)

As per claim 68, Schrire teaches:

One or more processor readable storage devices as defined in claim 62 wherein the restore information interface is provided via a world wide web interface. (93; Fig.8, Pg.4; 0084)

As per claim 69, Schrire teaches:

One or more processor readable storage devices as defined in claim 62 wherein the method includes the step of sending data to the phone from the data store responsive to restore information interface. (i.e. refresh data display on the phone; Pg.3; 0067, 0065, Pg.7; 0114, 0119)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

Art Unit: 2617

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schrire in view of Heinonen et al. [US 6728530].

As per claim 16, Schrire teaches all the particulars of the claim except personal information comprises a calendar entry data store. However, Heinonen teaches in an analogous art, that the method of claim 1 wherein said personal information comprises a calendar entry data store. (Col. 5; 44-58, Col.8; 33-46) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Schrire including personal information comprises a calendar entry data store in order to provide a calendar item retrieved from network based calendar system.

Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schrire in view of Sugimoto et al. [US 20040192260]

As per claims 18-19, Schrire teaches all the particulars of the claim except personal information comprises an alarm data/ a custom dictionary data/ an email data store. However, Sugimoto teaches in an analogous art, that the method of claim 1 wherein said personal information comprises an alarm data/ a custom dictionary data/ an email data store. (Pg.4; 0070) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention

Art Unit: 2617

to modify Schrire including personal information comprises an alarm data/ a custom dictionary data/ an email data store in order to provide a data backup system.

Claims 46-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schrire in view of Vasudevan. [US 20040192282]

As per claims 46-47 Schrire teaches all the particulars of the claim except application includes a BREW/ JAVA agent. However, Vasudevan teaches in an analogous art, that the application of claim 42 wherein the application includes a BREW/ JAVA agent. (Pg.3; 0046-Pg.4; 0047) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Schrire including the application includes a BREW/ JAVA agent in order to provide an application platform in the mobile communication system.

Response to Remarks

V. Applicant's arguments with respect to claims 1-62, 64-69 has been fully considered but is moot in view of the new ground(s) of rejection.

Conclusion

VI. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on M-F. (8:30-5 EST).

Art Unit: 2617

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or EBC@uspto.gov.



Sharad Rampuria
Patent Examiner
Art Unit 2617